

Chapter 6: CONSECUTIVE AND CONCURRENT SENTENCES

The court should first determine the sentence for each conviction in a verdict or plea. The following are the rules for imposing these sentences concurrently or consecutively.

6.1 Consecutive Sentences

The following sentences must be imposed consecutively:

For **crimes of violence**: multiple victims in multiple events; multiple victims in one event, and one victim in multiple events for offenses sentenced on the same day.¹⁴ See § 7.4.

The sentence imposed for a new offense(s) committed while the defendant was under sentence must run consecutively to any sentence imposed as a result of revocation of probation, parole, or supervised release or to the sentence being served at the time the new offense was committed.¹⁵

Offenses for which a consecutive sentence is required by statute.

Note: Only one crime of violence per victim per event needs to be sentenced consecutively to the others. Everything else can be either consecutive or concurrent. See § 9.16, Example 16.

Example

On February 9, 2004, the defendant held up a cab at gunpoint and robbed the driver and the passenger. Several days later the defendant held up the same cab at gunpoint and robbed the driver and a different passenger. He was convicted of four counts of Armed Robbery and four counts of Possession of a Firearm During a Crime of Violence. This example has multiple victims (the cabdriver and passengers) in multiple events (two armed robberies), and one victim (the cabdriver) in multiple events (two armed robberies). Armed Robbery and PFCOV are both in Group 5. Assuming defendant had no prior record, he will be sentenced in Box 5A, a prison only box with a range of 36 to 84 months. Each of these offenses, however, carries a mandatory minimum of 60 months. The sentences for each of the four armed robberies must be consecutive since one victim was robbed twice and there are two other victims. The two PFCOV's in each event should be sentenced concurrently since they will eventually merge. The PFCOV's for the first and second events can be sentenced either consecutively or concurrently to each other and to the armed robberies. Thus, the minimum sentence for these offenses is 240 months (4 AR's times the mandatory minimum of 60 months); the maximum sentence for these offenses is 504 months (4 AR's plus 2 PFCOV's times the maximum of 84 months). If the judge believes that the minimum sentence is too harsh, he or she may apply Mitigating Factor #9. Under such circumstances, the sentence cannot be lower than 60 months.

¹⁴ The word "event" is defined in § 7.10, *infra*.

¹⁵ A defendant who commits an offense while on post-conviction escape status or furlough is considered to be serving a sentence or under sentence at that time.

6.2 Concurrent Sentences

The following sentences must be imposed concurrently:

For **non-violent crimes**: multiple offenses in a single event, such as passing several bad checks.

Offenses for which concurrent sentences are required by statute.

6.3 Judicial Discretion

The court has discretion to sentence everything else either consecutively or concurrently.

Note: The departure principles permit deviating from these principles if the resulting sentence would otherwise be too harsh/lenient. *See* §§ 5.2.2(10) and 5.2.3(9).